

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: IRG Galesburg II LLC Tower Galesburg II LLC
DOCKET NO.: 05-00274.001-C-3
PARCEL NO.: 99-16-451-007

The parties of record before the Property Tax Appeal Board are IRG Galesburg II LLC Tower Galesburg II LLC, the appellant, by attorney Robert W. McQuellon III of Peoria and the Knox County Board of Review by State's Attorney John Pepmeyer.

The subject property consists of approximately 51.37 acres of land which have been improved with a manufacturing and office facility, paved parking, driveways and other improvements. The property was formerly known as Butler Manufacturing and is located in City of Galesburg Township, Illinois.

The appellant appeared before the Property Tax Appeal Board through counsel arguing that the fair market value of the subject was not accurately reflected in its assessed value. In support of this contention, the appellant's attorney argued the appellant purchased the subject property in December 2005 for a total price of \$200,000.

To support the claim, the appellant submitted a copy of a Purchase and Sale Agreement executed in August 2005 for properties, including the subject, consisting of approximately 105 acres with a purchase price of \$200,000 and a Final Settlement Statement dated December 2005, disclosing a purchase price of \$200,000, with reference to prorated property taxes for four separate parcel identification numbers. Peter Yanson, Senior Vice President and Asset Manager-Midwest Region of Quadrelle Realty Services, was called to testify as appellant's only witness in this proceeding.

Yanson described his company as a third party real estate management agent for the appellant's portfolios which combined consist of approximately 40 million square feet of space. He further described the appellant companies as purchasers of

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the **Knox** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	16,000
IMPR.:	\$	50,800
TOTAL:	\$	66,800

Subject only to the State multiplier as applicable.

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"second generation" properties which are largely functionally obsolete; the appellant then redevelops the properties for occupancy by multiple business tenants. Through the purchase of another nearby Knox County property, the appellant became aware of the availability of the subject property through the Galesburg Regional Economic Development Association ("GREDA") and negotiations for purchase were undertaken between the buyer and seller.

On cross examination, Yanson admitted that he had no personal knowledge as to how the parties arrived at the purchase price.

Based on evidence of the recent purchase price, the appellant requested the subject's assessment be reduced to \$67,000 which would reflect the entire purchase price on the one instant parcel. Counsel for appellant reiterated that claim despite further questioning by the Hearing Officer concerning the values assigned to the other three parcels comprising this sale transaction. Counsel for the appellant indicated those remaining parcels had minimal assessed values which were not at issue and had not been appealed; according to counsel for appellant, the vast majority of the assessment was placed on the subject property.

The Board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$1,196,620 was disclosed reflecting a market value of approximately \$3,582,695 using the 2005 three-year median level of assessments for Knox County of 33.40% as determined by the Illinois Department of Revenue. In support of the assessment, the board of review submitted three documents, presented two witnesses, and argued that with regard to the sale of the property in December 2005 and subsequent adjustment of the assessed value, the board of review acted in conformance with its rules and prior practices.

The first document submitted by the board of review was a computer print-out from the city assessor's office acknowledging that the subject property's 2006 assessment was reduced to \$49,370 to reflect a proportionate share of the arm's length sale which occurred the prior year in accordance with the rules and directions of the board of review.

The second document submitted consisted of two newspaper stories from August 24, 2005 about the closure of the Butler Manufacturing facility and about the potential sale of the property. One of the articles regarding sale of the property indicates that the property was not listed with a real estate firm and the seller was not disclosing its asking price.

The third document submitted was a copy of an Illinois Real Estate Transfer Declaration dated December 2005 referencing four

parcel identification numbers, including the subject property, and reflecting a total purchase price of \$200,000 and indicating that the property was advertised for sale or sold using a real estate agent.

The first witness called by the board of review was Darrell Lovell, the Galesburg city assessor since 1986 who testified that the subject property known as Butler Manufacturing was purchased initially in April 2004 by Blue Scope and consistent with directives from the board of review, that purchase price resulted in the assessment as of January 1, 2005. Lovell testified that pursuant to long-standing policy of the board of review, arm's length sales transactions occurring between January 2 and December 31 of a given year are to be reflected in the assessment as of January 1 of the following year. At the request of the Hearing Officer, the board of review submitted its "Board of Review Complaint Procedures" in effect for 2005 which it contends sets forth this policy at the last line of the document: "The Board of Review does not act on a current year (2005) sale." (Board of Review Ex. 1)

Lovell also testified that the subject property was again placed for sale on August 24, 2005 after the closure of the manufacturing plant which led to the purchase by the appellant in December 2005. Lovell and his staff made inquiries into the terms of this sale to appellant and determined the sale was an arm's length transaction and therefore adjusted the assessment of the subject property as of January 1, 2006 to reflect a portion of the sales price for an assessment on the subject property of \$49,370 or an estimated fair market value of approximately \$148,110 with the remainder of the \$200,000 sales price divided among the other three parcels comprising the purchase.

On cross examination, Lovell acknowledged that the 2004 purchase of the subject property by Blue Scope involved six or seven factories, including the subject, and no Illinois Real Estate Transfer Declaration was filed for that purchase. Furthermore, Lovell determined the 2004 sale was of an arm's length nature and he utilized that sale to establish the assessment for January 1, 2005.

The board of review's final witness was its chairman Mike Gehring who testified he has been chairman for four years and a board member for six years. Gehring confirmed the standard practice and procedure of the board of review with regard to adjusting assessments the following year after a sale.

Based on its submissions, the board of review requested confirmation of the assessment or a finding of approximately \$3,582,695 as the fair market value of the subject as of the assessment date of January 1, 2005.

As provided for in the procedural rules of the Property Tax Appeal Board, counsel for appellant timely filed a letter in rebuttal to the board of review's evidence which was made part of the instant record. In said rebuttal correspondence, appellant contends the subject property's value as of January 1, 2005 would be consistent with its value as of January 1, 2006 and that the board of review provided no "substantive documentary evidence" to support its 2005 assessment in accordance with Section 1910.63(c) of the Board's rules. (86 Ill. Admin. Code, Sec. 1910.63(c)).

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject property's assessment is warranted. The appellant argued the subject property's assessment was not reflective of its fair market value. When market value is the basis of the appeal, the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3rd Dist. 2002). The Board finds the appellant has overcome this burden.

The Board finds the subject property along with three additional parcels sold in December 2005 for \$200,000. Moreover, the Board finds the board of review adjusted the subject's 2006 assessment to reflect the December 2005 sale, but declined to reduce the 2005 assessment because of the board of review's standard practice and procedure in effect since 1987. The Property Tax Appeal Board notes that the Illinois Supreme Court has indicated that a sale of property during a tax year in question is a "relevant factor" in considering the validity of an assessment. People ex rel. Munson v. Morningside Heights, 45 Ill. 2d 338, 259 N.E.2d 27 (1970). Furthermore, the Property Tax Code provides that, except in counties with more than 200,000 inhabitants which classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)).

The Illinois Supreme Court defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d. 428 (1970). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1st Dist. 1983); People ex rel. Munson v. Morningside Heights, Inc., 45 Ill.2d 338 (1970); People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d

158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945). Additionally, Section 1-50 of the Property Tax Code defines fair cash value as:

The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. (35 ILCS 200/1-50).

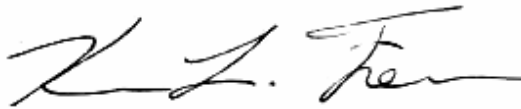
The board of review conceded that the instant sale transaction of December 2005 was, in fact, an arm's length transaction. Moreover, the board of review provided no evidence or testimony that the subject's December 2005 sale price did not reflect the subject's market value. Therefore, the Property Tax Appeal Board finds the best evidence contained in the record of the subject's fair market value as of its January 1, 2005 assessment date is its December 2005 sale along with three additional parcels for \$200,000. The record is clear that the subject property along with three additional parcels sold on the open market meeting the criteria of an arm's-length agreement for \$200,000 as of December 2005. This sale is probative, credible evidence that the subject's assessment established by the board of review, which reflects an estimated market value of \$3,582,695, is not an accurate indication of value as of January 1, 2005.

In conclusion, the Board finds the appellant has met its burden of proving overvaluation by a preponderance of the evidence. On the basis of the sale price and the failure of the appellant to present evidence in order to apportion that sale price among the four parcels purchased, the Property Tax Appeal Board finds that the subject had a fair market value of \$200,000 as of January 1, 2005. Since fair market value has been established, the three-year weighted average median level of assessments for Knox County of 33.40% shall apply.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member



Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: January 25, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.